IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
Review Petition No.4 of 2003
in
Second Appeal No.279 of 2001

Shri Shivaji Anant Shelke. .. Petitioner

Vs.

Shri Babanrao Anant Shelke & Ors. .. Respondents

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Shri N.V.Walawalkar, Sr.Counsel, with Shri Dilip Bodke for the petitioner.

Shri G.S.Godbole i/b Shri H.S.Venegavkar for the respondent No.1.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 21ST APRIL, 2006

P.C.

1. Heard. There is absolutely no case made out for review of the impugned order as there is no error apparent on the face of record which would justify interference in the impugned order in exercise of review power. However, in the course of hearing of the matter, the learned advocate for the respondent No.1 has fairly conceded that there is a typing mistake in clause (3) of the operative portion of the judgment and order passed by the lower appellate court

to the extent that instead of referring to Defendant No.1, there is a reference to Defendant No.2. The said clause (3), as it appears in the said judgment and order passed by the lower appellate Court, reads thus:-

> "Plaintiffs suit is decreed with costs. Plaintiff, defendants No.2 and 3 are entitled for partition and separate possession to the extent of five sixteen 5/16 share each in all the properties. Respondent No.2A is entitled 1/16 share."

2. In the circumstances, therefore, it is not necessary to drive the parties again to the lower appellate Court to get necessary correction done. As fairly conceded by the learned advocate on behalf of the respondents, by consent, the correction in the impugned order can be carried out here itself. Accordingly, the clause (3) in the operative portion of the said judgment and order passed by the lower Appellate Court is required to be corrected by replacing the number "2" as number "1" after the expression "defendants No." On such correction in the clause (3) of the operative portion of the judgment and order passed by the lower appellate Court shall

read thus:-

> "Plaintiffs suit is decreed with costs. Plaintiff, defendants No.1 and 3 are entitled for partition and separate possession to the extent of five sixteen 5/16 share each in all the properties. Respondent No.2A is entitled 1/16 share."

3. The lower appellate Court to take note of this order and make necessary correction in the operative portion of the judgment and order passed by it and consequently the decree to be issued.

4. With this order, the application is disposed of.

(R.M.S.KHANDEPARKAR, J)